

CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT

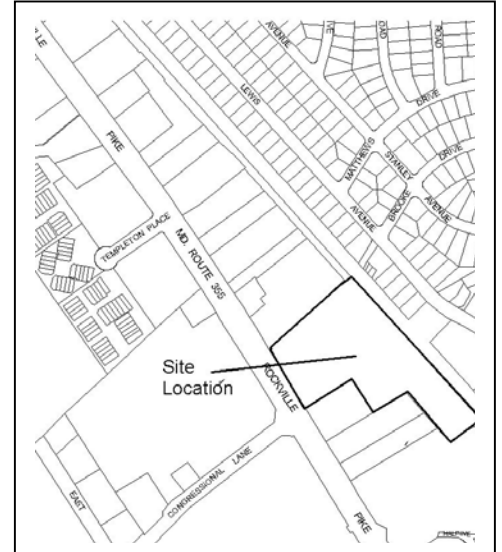
AUGUST 5, 2004

SUBJECT:

Special Exception Application SPX2004-00343

Applicant: Kensington Realty, Inc.
11411 Rockville Pike
Rockville, Maryland 20895

Counsel: Erica Leatham, Esquire
Holland & Knight LLP
3 Bethesda Metro Center, Suite 800
Rockville, Maryland 20814



Property Location: 1570 Rockville Pike, Rockville, Maryland 20852

Planning Commission Review Date: August 11, 2004
Board of Appeals Public Hearing Date: September 11, 2004

PREVIOUS RELATED ACTION:

Use Permit U-176-64, Rockville Associates c/o Devlin Lumber & Supply Corporation - a proposal to construct additional buildings to be used by the lumber company in the operation of its business, then in the I-1 (Service Industrial) Zone. Approved by the Planning Commission on July 9, 1964.

Use Permit U-235-65, Rockville Associates c/o Devlin Lumber & Supply Corporation – a proposal to redevelop a portion of the subject property, which would include removal of an existing drive-in restaurant and replacement with a new drive-in restaurant. Denied by the Planning Commission on August 19, 1965.

Use Permit U-102-78, Marriott Corporation c/o Steve Lizik – a proposal to construct an addition on the rear of an existing Hot Shoppe's Junior Restaurant, converting it to a Bob's Big Boy Restaurant in the (then) C-2 (General Commercial) Zone located at 1560 Rockville Pike. Approved by the Director of Planning on August 3, 1978.

REQUEST:

In accordance with Section 25-296 of the City of Rockville Zoning Ordinance, the applicant submits the subject special exception request, a proposal to conduct outdoor motor vehicle sales as an accessory use to indoor motor vehicle sales, in the RPC (Rockville Pike Commercial) zone.

The applicant seeks approval to renovate and reuse one of the existing buildings and accompanying site surface parking, formerly used in the operation of the Devlin Lumber Company, which was located on the subject site.

RELEVANT ISSUES:

- Customer parking and employee parking should be clearly identified on site plan.
- Use of directional signage, informing visitors/customers where designated site parking facilities are located.
- Access to the vehicle storage lot located in the rear of the proposed auto sales and service building.

STAFF RECOMMENDATION:

Approval is recommended subject to the following conditions:

1. The business use must be operated in substantial accordance with the statement of operations and the descriptions and representations set forth in the subject special exception request and land use proposal.
2. The use of an external intercom/public address loudspeaker system in the operation of the business is strictly prohibited.
3. Vehicle repair or dismantling shall not be permitted outside of the service building. No dismantled, partly dismantled or wrecked motor vehicles or trailers shall be parked outside of an enclosed structure. Display of banners, pennants or flags for purposes of advertising is prohibited (ref. Section 25-366(b) of the Ordinance).
4. Delivery, unloading, and/or loading of vehicles from truck carriers on site or on public streets is strictly prohibited.
5. The site surface parking and vehicle storage lots must be repaired, resurfaced, re-striped, and configured as shown on the site plan submitted with the subject special exception request. Each parking space shall be labeled with paint and properly maintained, to indicate whether it is a customer, employee, or display space.
6. Storage and/or parking of the dealership's vehicular inventory on portions of the subject property beyond the limits of this special exception or abutting properties, is prohibited.
7. Proposed and/or existing site lighting facilities shall be installed and arranged to prevent glare and light spillage onto adjacent properties and so that it does not interfere with the movement of

vehicular traffic along Rockville Pike. A lighting plan shall be provided and reviewed as part of the project's use permit amendment.

8. All internal and external traffic control devices (i.e., signs, signals, markings, and devices placed on, over, or adjacent to a roadway or pathway to regulate, warn, or guide pedestrians, and/or other vehicular traffic) shall comply with the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD); which is currently the Millennium Edition.
9. The site vehicular circulation plan must be amended to illustrate loading and unloading circulation in front of the proposed automobile showroom and service building, i.e., trash collection, package-parcel pick-up and deliveries, etc. The plan should also reflect how vehicles exit the site.
10. In consultation with the City's DPW - Traffic and Transportation staff the applicant shall obtain a permit from the Maryland State Highway Administration (SHA) to close the northern most site entrance - curb cut on Rockville Pike. The applicant and/or property owner shall be financially responsible for the implementation of this improvement.
11. Landscaping in the amount of two and one-half (2½) square feet per parking space shall be provided in each development containing forty (40) or more parking spaces. Landscaping shall be with deciduous shade trees and distributed/located in plating islands or corner areas within the parking area (Ref. Section 25-417 of the Zoning Ordinance).
12. All exterior signage must comply with the City's sign regulations, including color, style, and placement.
13. Customer and employee parking, and the outdoor sales area parking spaces, must be clearly shown on the site plan.
14. The applicant in coordination with the property owner shall provide a service drive easement along MD. Route 355 as per the Rockville Pike Corridor Plan.

ANALYSIS:

Property Description

The property subject to the special exception request is located at 1570 Rockville Pike. The applicant property (when operational) will be one of several site uses located on the subject larger record lot. The overall property is approximately 7.48 acres in size, while the area that is the subject of the special exception, is approximately 2.25 acres in size. The overall property developed with a mix of retail sales and personal services uses, a restaurant, and general office uses. The two (2) vacant buildings located in the eastern area of the site are the last remaining remnants of the former Devlin Lumber warehousing operation that was once located on the site. Under the proposal as submitted, the applicant will occupy the smaller of the two vacant buildings, i.e., the two-story building located in the southeastern area of the site.

According to the site's previously approved use permit (U-176-64), a total of 306 on-site parking spaces are provided to accommodate all existing site uses. As per the plans submitted, a total of 309 on-site surface parking spaces are/will be provided, per the special exception request as submitted. As denoted on the plans as submitted, the overall site currently contains the following building-development: a) 22,640 square feet of retail site space, b) 19,944 square feet of vacant service industrial space, c) 5,250 square feet of furniture/carpet sales space, and d) 5,200 square feet of general/professional office space.

Although the property contains a mix of commercial, retail, and office related land uses, the overall property is one single record lot. The overall property site is primarily covered with impervious surface materials, i.e., building structures, concrete and macadam surface parking, etc. Most of the site buildings are of masonry construction and one story in height, except for the vacant building which is to accommodate the proposed automobile dealership. The site is relatively flat and contains a modest amount of vegetative material. The site has vehicular access onto Rockville Pike via three existing site entrances.

The property is bounded by commercial and retail land uses to the north, south, and west, and on its rear eastern property line by railroad rights-of-way, that serve the Washington Metropolitan Area Transit Authority – Metro Rail subway, MARC Commuter Train, and CXS Freight Railroad train traffic.



Aerial overview of 1570 Rockville Pike

Request & Project Proposal

The applicant owns and operates automobile dealerships in the Washington Metropolitan region and greater Maryland, under the Fitzgerald Auto Mall name. The subject special exception is a request to conduct outdoor automobile sales in conjunction with indoor motor vehicle sales, with ancillary auto repair activities, and retail sales of auto parts and accessories. As noted, the applicant proposes to reuse and renovate the two-story masonry building and accompanying site surface parking facilities for use and operation of its proposed automobile dealership.

The building will house a showroom, lounge, customer consultation desks, a service “write-up” area, management offices, rest rooms, an employee lounge and other areas necessary to accommodate the proposed use. As shown on the proposed floor plan, the remainder of the ground floor area of the building will house 15 service bays. The upper level of the building will be used for storage and other miscellaneous purposes in the overall operation of the automobile dealership.

The outdoor sales and vehicle display area will be located in the front of the building, while vehicle storage will be accommodated in the rear parking area of the site, which as shown on the site plan has a design capacity to accommodate 134 vehicles (See Exhibit “1”). The rear vehicle storage area will be accessible only to employees, because the area can only be accessed via the 10-foot wide travelway/drive aisle located along the eastern area of the site. Because the building is located within close proximity of the rear lot line, the travelway cannot be widened. Thus it must function as a one-way travel aisle, in order to allow vehicles to safely enter and exit the vehicle storage lot. The applicant will be responsible for insuring that appropriate signage is posted denoting that it is a limited access driveway where vehicles may travel in one direction at a time, and may only be used by employees of the dealership.

As shown on the site plan, vehicular access to the overall site is provide via three (3) existing site entrances on Rockville Pike. Staff has requested the applicant and/or its assigns obtain the appropriate permit from the State Highway Administration, to close the site’s northern most existing street entrance/curb cut onto Rockville Pike. In an effort to eliminate (where practical) excessive curb cuts along the Rockville Pike travel corridor, staff has recommended the noted curb cut/access point be closed.

To insure unencumbered site circulation in the operation of the proposed use, the applicant’s statement of operation notes that vehicles being sold by the dealership, will not be delivered to the site via large truck trailer carriers, but are to be individually driven to the site. The applicant has use of off-site vehicle storage facilities, making the delivery of vehicles via large truck transport unnecessary.

In accordance with Section 25-395(a)(4), (25), and (30) a., of the Zoning Ordinance, a total of 64 on-site parking spaces are required for the subject site use. As shown on the site development plan submitted with the subject request, a total of 115 on-site parking spaces will be provided to accommodate the proposed automobile sales operation. As noted, the rear vehicle storage lot as designed will accommodate an additional 134 vehicles. The dealership will operate under the

following business hours: a) Sales facility - Monday thru Saturday 7:00 a.m. to 9:00 p.m., and Sunday 9:00 a.m. to 6:00 p.m., and b) Service department - Monday thru Saturday 7:00 a.m. to 7:00 p.m.

Applicable Section of the Ordinance & Staff Analysis

In accordance with Section 25-338 of the City of Rockville Zoning Ordinance, the Board of Appeals shall not grant any petition for special exception unless it finds from a preponderance of the evidence of record that:

1. The proposed use does not violate or adversely affect the Master Plan, the Zoning Ordinance or any applicable law; and

The subject property is zoned for RPC (Rockville Pike Commercial) land usage, which is consistent with Master Plan's land use designation for Rockville Pike Corridor Mixed Use Development. As per the Ordinance "the purpose of the RPC Zone is to provide a wide range of retail uses and services, commercial activities and residential opportunities within the Rockville Pike Corridor Area." Based on the site plan as submitted, the subject use as shown complies with applicable requirements of the Plan and the Ordinance at this stage in the development review process. In accordance with requirements of the Ordinance, the applicant submits the subject special exception, which seeks approval to establish and operate an outdoor automobile sales business, accessory to indoor motor vehicles sales in the RPC Zone.

Special exception land uses are deemed appropriate in respective zones, if it can be demonstrated that the use as proposed, will not adversely impact the existing use and/or operation of neighboring land uses. As previously noted, the subject property is bounded on all sides by commercial and other retail land uses. Based on the plans provided, staff finds the existing building which will be used in the operation of the proposed business and its accompanying site improvements do not violate any known requirements of the Zoning Ordinance, e.g., building setback, lot coverage, floor area ratio, building height, and/or parking requirements.

Note, while the drive aisle located along the site's rear eastern lot line, which will provide vehicular access to/from the rear vehicle storage area, is less than 14 feet in width (i.e., 10 feet at its narrowest point), the width of this travel aisle is deemed to be a development non-conformity, which the applicant does not propose to alter or make worst.

2. The proposed site use at the selected location will not: a) Adversely affect the health and safety of residents or workers in the area; or b) Overburden existing public services, including water, sanitary sewer, public roads, storm drainage and other public improvements; or c) Be detrimental to the use or development of adjacent properties or the neighborhood; or d) Change the character of the neighborhood in which the use is proposed, considering services currently required, population density, character, and number of similar uses; and

The subject property has frontage on Rockville Pike (Md. Route 355) a six-(6) lane divided state arterial roadway. Rockville Pike is one of the most heavily traveled roadways within the city and county. Based on the proposal as submitted, the automobile sales dealership does not generate greater than 100 peak hour trips and as such the applicant was not required to conduct a formal traffic study. The applicant did however submit a transportation statement. In the statement it is noted, the dealership will generate 29 a.m. peak hour trips, 37 p.m. pike hour trips, and 438 daily trips.

To reduce and/or mitigate potential disruption in traffic flow movement in and around the subject site, staff has recommended the site's northern-most curb cut on Rockville Pike be closed. Staff is attempting to reduce (where practical) excessive curb cuts along the Rockville Pike travel corridor. The property is currently served by public utilities, e.g., water and sewer, gas and electricity, storm drainage infrastructure, etc. Since the overall and subject property is currently developed, staff is working with the applicant to determine whether respective site area utilities and other infrastructure will require retrofit and/or upgrade in order to accommodate the subject site use. In review of the land use request, staff found no evidence that the proposed automobile dealership at the subject location would overburden existing public services and/or improvements within the subject site area.

The property is surrounded by an array of commercial and retail land uses. The Rockville Pike Corridor is one of the most heavily commercialized areas within the metropolitan region and as such the applicant's request to permit outdoor automobile sales, conducted in conjunction with indoor auto sales use, would not be contrary to the character of the area in which it is located. There are a number of automobile dealerships currently located along Rockville Pike within general but not immediate proximity to the subject site. These existing motor vehicle sales dealerships were also allowed at their respective locations by special exception approval. Based on the number of similar land uses currently located along this commercial corridor, coupled with the mix of other commercial and retail-service uses, it is highly unlikely the proposed automobile dealership would alter the character of the subject site area.

To mitigate potential adverse impacts that the automobile dealership might have on surrounding land uses staff has recommended that the "delivery, unloading, and/or loading of vehicles from truck carriers to/from the subject site be prohibited." Due to physical site constraints, staff believes that that such site delivery, loading, and/or off loading of vehicles, cannot be safely accomplished on the subject site, without causing disruption to traffic flow movement in and around the subject site, thus creating unsafe and potentially hazardous conditions for motorist traveling along Rockville Pike. Also, said delivery, unloading, and loading of vehicles should not occur on neighboring properties. If the business is operated as proposed, and in accordance with the recommended conditions of approval as referenced in this staff report, there should be little if any disruption in the delivery of services to the subject site area, i.e., police, fire and rescue services, refuse collection, snow removal, etc.

Also, to insure that vehicular traffic generated by the planned site use not adversely impact or alter traffic flow movements within the site area and/or along the public roadway, appropriate traffic control signage must be installed on and around the subject site area. Such signage should

include but not be limited to the following: stop and yield, pedestrian warning, directional and informational, site identification, etc. In addition to site signage, site lighting is an important operational element of the use, which could potentially have adverse impacts on neighboring land uses, as well as traffic flow movements in and around the site area. Staff recommends that the applicant provide a lighting plan and/or detail on existing site lighting, which will be reviewed and approved as part of the project's use permit amendment application.

To limit the amount of noise/sound being generated from the site, during the course of a typical business day, staff has also recommended that the business may not use an exterior loudspeaker or public address type system in the operation of the automobile dealership.

3. The proposed use complies with all requirements of the ordinance that are applicable thereto.

The subject request is submitted in accordance with Section 25-296 of the Ordinance. Staff finds that the subject application request at this preliminary stage in the land use and development review process complies (in concept) with all known requirements of the Ordinance.

In addition to the noted standards for approving a special exception request, per Section 25-366(b)(1) & (2) of the ordinance, the following special development and use restrictions apply to the proposed site use: *a. No repairs or dismantling shall be permitted outside of a closed structure, b. No dismantled, partly dismantled or wrecked motor vehicles or trailers shall be parked outside of an enclosed structure, and c. Display of banners, pennants or flags for the purpose of advertising is prohibited.*

The applicant has been made aware that repair or dismantling of vehicles will not be permitted outside the enclosed building, nor will partially dismantled or wrecked vehicles be parked outside of an enclosed structure. Lastly, there will be no outdoor display of banners, pennants or flags for advertising purposes.

Based on all of the noted factors, staff finds suitable justification to recommend Special Exception Application SPX2004-00343 be approved, subject to the conditions as referenced on pages two and three of this staff report.

COMMUNITY NOTIFICATION PROCESS:

Notification cards were sent to abutting property owners informing them of the application request and pending Planning Commission review and Board of Appeals public hearing, where the subject request will be publicly heard and considered. Notices were sent to 109 property owners located within the subject site area. A list of addresses is contained in the project's application file for public review and inspection.

/cdc

Attachment A – Dealership Authorization Letter

Attachment B- Traffic Statement

Attachment C- Staff Traffic Impact Review

Exhibit "1" – Overall Site Plan Layout

Exhibit "2" – Subject Site Layout

Exhibit "3" – Site Circulation

Exhibits "4" – Elevation Drawings

Exhibits "5" – Floor Plan